

**CODE OF ETHICS FOR THE  
CITY COUNCIL OF  
HICKORY, NORTH CAROLINA**

**PREAMBLE**

**WHEREAS**, the proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; and

**WHEREAS**, as elected local government officials we are charged with upholding the trust of the citizens of the City of Hickory, North Carolina and with obeying applicable laws; and

**WHEREAS**, Section 160A-86 of the North Carolina General Statutes requires local governing entities to adopt a code of ethics.

**NOW THEREFORE, BE IT RESOLVED** in recognition of our blessings and obligations as citizens of the State of North Carolina and as elected local government officials representing the citizens of the City of Hickory, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Council of the City of Hickory, North Carolina, do hereby adopt the following general principles and code of ethics to guide the Council in its lawful decision-making. (Hereinafter, the terms "elected local government official(s) or elected official(s), the Council, Council member(s) or elected member(s)," shall be used interchangeably when referring to the Council of the City of Hickory, North Carolina.)

## CODE OF ETHICS

**Purpose.** The purpose of this code of ethics is to establish guidelines for ethical standards of conduct for Council members and to provide guidance in determining what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a Council member's best judgment.

**Section I. A Council member shall obey the law.**

Council members shall obey all laws that apply to their official actions as Council members. Council members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Council members should feel free to assert policy positions and opinions without fear of reprisal from fellow Council members or citizens. To assert that a Council member is behaving unethically based upon a disagreement with that Council member on a question of policy (and not on the Council member's ethical behavior) is unfair, dishonest, irresponsible, and itself unethical.

The Council shall endeavor to keep itself up-to-date, through its attorney or other sources, of new or ongoing legal or ethical quandaries or difficulties that members may face in their official positions.

**Section II. A Council member need uphold the integrity and independence of his or her office.**

Council members should act with integrity and with independence from improper influence as they exercise the functions of their offices. Further, Council members should use their best judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner. They should be self-governing and not subject to improper influence, while at the same time being able to consider the opinions and ideas of others.

Council members should recognize that they are part of a larger group and should act accordingly. They should respect their office and not behave in ways that reflect badly on it. They should treat other Council members and the public with respect, and should honor the opinions of others, even when they disagree. Finally, members should recognize that they are not generally authorized to act on behalf of the Council, since the Council must take official action as a body.

**Section III.a. A Council member need avoid impropriety in the exercise of his or her official activities.**

Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

If a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the Council's attorney as well as consider publicly disclosing the facts of the situation and the steps taken to resolve it.

**Section III.b. Conflicts of Interest Policy**

The Conflicts of Interest Policy previously approved by the City Council and attached hereto as Appendix I, shall be incorporated herein, by reference, in its entirety. In accordance with said policy, a Council member shall complete a Disclosure of Interests form which must be filed annually with the City Clerk by the first of July.

**Section IV. Council members must diligently perform the duties of his or her office.**

Council members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Council members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them.

Council members should be willing to bear their fair share of the Council's workload. To the extent appropriate, they should be willing to put the Council's interest ahead of their own.

**Section V. A Council member shall conduct the affairs of the Council in an open and public manner.**

Council members should conduct the affairs of the Council in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business.

They should also remember that local government records belong to the public and not to Council members.

In order to ensure strict compliance with the laws concerning openness, Council members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

**Section VI. Council members shall attend ethics education training.**

All members of City Council shall receive a minimum of two clock hours of ethics education within twelve months after initial election or appointment to the office, and again within twelve months after each subsequent election or appointment to the office in accordance with N.C.G.S. § 160A-84. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards or conduct at the local government level. The ethics education may be provided by various qualified sources, including the North Carolina League of Municipalities and UNC School of Government, or other qualified sources of the Council's choosing. The Clerk to the governing Council shall maintain a record verifying receipt of the ethics education by each member of the City Council.

**BE IT FURTHER RESOLVED** that:

When a City Council member has a doubt as to the applicability of any provision of this article to a particular situation or to the definition of terms used in this article, he may apply to the City Attorney for an advisory opinion, who shall issue an opinion in writing and file same with either the City Council or City Attorney. The City Council member shall have the opportunity to present his or her interpretation of the facts at issue and of the application or provisions of this article before such advisory opinion is made. In addition, the City Council member shall publicly disclose to the City Council or City Manager the facts of issue in a particular situation and shall rely upon any resolution adopted by the City Council or City Manager regarding that particular situation.

## APPENDIX I

### CONFLICT OF INTEREST

#### Conflicts Resulting in Financial Gain

##### A. Definitions

For purposes of this section, the following definitions shall apply:

1. **Business Entity** means any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust or corporation which is organized for financial gain or for profit.
2. **City Official** means the Mayor, members of the City Council, City Manager, Assistant City Manager, City Attorney, and Department Heads.
3. **Immediate Household** means the City Official, his/her spouse, and all dependent children of the City Official.
4. **Interest** means direct or indirect pecuniary or material benefit accruing to a City Official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City. For purposes of this article, a City Official shall be deemed to have an interest in the affairs of (1) any person in his immediate household as such term is defined in this section, (2) any business entity in which the City Official is an officer or director, (3) any business entity in which an excess of five percent (5%) of the stock of or legal or beneficial ownership of is controlled or owned directly or indirectly by the City Official, (4) any non-profit organization on which the Mayor or any member of the City Council currently serves as an officer, director, or board member.
5. **Official act or action** means any legislative, administrative, appointive, or discretionary act of any City Official.

##### B. Standards of Conduct

1. Scope All City Officials as defined in this article shall be subject to and abide by the following standards of conduct.
2. Interest in Contract or Agreement No City Official herein defined shall have or thereafter acquire an interest in any contract or agreement with the City. This section does not prevent employment contracts between the City Official and the City.

3. Use of Official Position No City Official shall use his or her official position or the city's facilities for his or her private gain. In addition, City Officials shall not misuse their status in such a way as to require, expect, or accept favors from subordinate employees.

4. Disclosure of Information No City Official shall use or disclose confidential information gained in the course of or by reason of his official position for purposes of advancing (1) his or her financial or personal interest, (2) a business entity in which he or she is an owner in part or in whole, an officer or director, (3) the financial or personal interest of a member of his or her immediate household or that of any other person.

5. Incompatible Service No City Official shall engage in or accept private employment or render service to private or other public interests when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties unless otherwise permitted by law and unless disclosure is made as provided in this article. Before accepting private employment, the City official should consider whether such employment would impact the City negatively. A City Official who accepts private employment should not represent himself or herself as an employee or agent of the City of Hickory.

6. Gifts No City Official shall directly or indirectly solicit any gift or accept or receive any gift having a value of Twenty-Five Dollars (\$25.00) or more whether in the form of money, services loaned, travel, entertainment, hospitality, thing or promise or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of official duties or is intended as a reward for any official action on his or her part. Legitimate political contributions shall not be considered as gifts under the provisions of this paragraph.

7. Special Treatment No City Official shall grant any special consideration, treatment, or advantage to any citizen or public or private entity beyond that which is available to every other citizen or entity.

#### C. Disclosure of Interest in Legislative Action

The Mayor or any member of the City Council who has an interest in the official act or action before the Council shall publicly disclose on the record of the Council the nature and extent of such interest and shall withdraw from any consideration of the matter if excused by the Council pursuant to City Charter.

#### D. General Disclosure - City Clerk to Prescribe Form and Fees

1. All City Officials as herein defined shall file with the City Clerk on the 1st day of July 1992 a statement containing the following information: (1) The identity by name and address of any business entity of which he or she or any member of his or her immediate household is an owner, officer or director and percentage of interest or ownership, if applicable. Additionally, the City Official and spouse shall give the name of their employer or if self-employed, state the nature of their work. (2) The identity by location and address of all real property located in the Hickory Regional Planning Area owned by the City Official or any member of his or her immediate household, including an option to purchase or lease for ten years or more other than personal residence. (3) The identity by name and address of any non-profit organization which was the subject of some official act or action of the City within the past year and on which the

City Official or spouse serves as an officer, director or board member. In addition, the City Official should provide names of other board members of any entity on which the City Official serves.

2. The statements required by this section shall be filed on a form prescribed by the City Clerk and are public records available for inspection and copying by any person during normal business hours. The City Clerk shall charge the City's prescribed fee for the copying of statements. City Officials are responsible for updating this disclosure statement any time there is any change in the City Official's ownership or status as defined by this section.

#### E. Investigations Instigated by City Council, City Manager or Any Other Person

1. City Council may direct the City Attorney to investigate any apparent violation of this article as it applies to the Mayor, any member of the City Council, or City Manager, and to report the findings of the investigation to the City Council.

2. The City Manager may direct the Staff Attorney to investigate any apparent violation of this article as it applies to the Assistant City Manager and Department Heads and to report the findings of the investigation to the City Manager.

3. The City Council may direct the City Manager to investigate any apparent violation of this article by the City Attorney and to report the findings of the investigation to the City Council.

4. Any person who believes that a violation of this article has occurred may file a complaint in writing with the City Council when the Mayor and members of the City Council, City Manager, or City Attorney are the subjects of the complaint, or with the City Manager when the Assistant City Manager or Department Heads are the subjects of the complaint and may thereafter proceed as provided in paragraph one through three of this section.

#### F. Sanctions by City Manager and City Council, Rights of Accused at Hearings

1. If the City Manager, after receipt of an investigation, has cause to believe a violation has occurred, a hearing shall be scheduled on the matter. The hearing shall be conducted in accordance with Personnel provisions of the North Carolina General Statutes and City Charter. The City Official who is charged with the violation shall have the right to present evidence, cross-examine witnesses, including the complainant or complainants, and be represented by counsel at the hearing. If after such hearing and a review of all the evidence the City Manager finds that a violation of this article has occurred, he shall take whatever lawful disciplinary action he deems appropriate, including but not limited to reprimand, suspension, demotion, or termination.

2. If the City Council, after receipt of an investigation, has cause to believe a violation has occurred, the City Council shall schedule a hearing on the matter, said hearing may be held as an Executive Session. The City Official who is charged with the violation shall have the right to present evidence, cross-examine witnesses, including the complainant or complainants, and be represented by counsel at the hearing. If upon the conclusion of the hearing, the majority vote of the Council finds a violation has occurred, the Council may adopt a resolution of censure which shall be placed as a matter of record in the minutes of an official Council meeting.

#### G. Advisory Opinions

When a City Official has a doubt as to the applicability of any provision of this article to a particular situation or to the definition of terms used in this article, he may apply to the City or Staff Attorney for an advisory opinion, either of which shall issue an opinion in writing and file same with either the City Council or City Attorney. The City Official shall have the opportunity to present his or her interpretation of the facts at issue and of the application of provisions of this article before such advisory opinion is made. In addition, the City Official shall publicly disclose to the City Council or City Manager the facts of issue in a particular situation and shall rely upon any resolution adopted by the City Council or City Manager regarding that particular situation.



## ACCEPTANCE

Accepted by the Hickory City Council for and on behalf of the City of Hickory, North Carolina, this 7 day of September, 2010.

**THE CITY OF HICKORY,**  
North Carolina Municipal Corporation

ATTEST:

(SEAL)



Rudy Wright  
Rudy Wright, Mayor

Mick Berry  
Mick Berry, City Manager

Pamela S. Tallent  
Pamela S. Tallent, City Clerk

Approved as to form on behalf of the City of Hickory this 18 day of September, 2010.

Arnita M. Dula  
Arnita M. Dula, Staff Attorney

**APPENDIX II**

**CODE OF ETHICS FOR THE  
CITY COUNCIL OF  
HICKORY, NORTH CAROLINA**

I, a member of the City Council of the City of Hickory, North Carolina, acknowledge that I have received and reviewed a copy of the Code of Ethics for the City Council of Hickory, North Carolina in accordance with N.C. Gen. Stat. § 160-A-86.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2009-403  
HOUSE BILL 1452**

AN ACT TO REQUIRE ALL CITIES, COUNTIES, LOCAL BOARDS OF EDUCATION, UNIFIED GOVERNMENTS, SANITARY DISTRICTS, AND CONSOLIDATED CITY-COUNTIES TO ADOPT A CODE OF ETHICS FOR THE GOVERNING BOARD AND TO REQUIRE THE MEMBERS OF THOSE GOVERNING BOARDS TO RECEIVE EDUCATION ON ETHICS LAWS APPLICABLE TO LOCAL GOVERNMENT OFFICIALS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 3A. Ethics Codes and Education Programs.

**"§ 160A-83. Local governing boards' code of ethics.**

(a) Governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member's official duties as a member of that governing board.

(b) The resolution or policy required by subsection (a) of this section shall address at least all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as a board member.
- (2) The need to uphold the integrity and independence of the board member's office.
- (3) The need to avoid impropriety in the exercise of the board member's official duties.
- (4) The need to faithfully perform the duties of the office.
- (5) The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

**"§ 160A-84. Ethics education program required.**

(a) All members of governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall receive a minimum of two clock hours of ethics education within 12 months after initial election or appointment to the office and again within 12 months after each subsequent election or appointment to the office.

(b) The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level.

(c) The ethics education may be provided by the North Carolina League of Municipalities, North Carolina Association of County Commissioners, North Carolina School Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the governing board.

(d) The clerk to the governing board shall maintain a record verifying receipt of the ethics education by each member of the governing board."

**SECTION 2.** G.S. 115C-47 is amended by adding a new subdivision to read:

"(57) To adopt a code of ethics. – Local boards of education shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83."

**SECTION 3.** G.S. 115C-50 reads as rewritten:

**"§ 115C-50. Training of board members.**

(a) All members of local boards of ~~education~~ education, whether elected or appointed, shall receive a minimum of 12 clock hours of training annually. The 12 clock hours of training may include the ethics education required by G.S. 160A-84.

(b) The training shall include but not be limited to public school law, public school finance, and duties and responsibilities of local boards of education.

(c) The training may be provided by the North Carolina School Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the local board of education."

**SECTION 4.** Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-53. Ethics.**

(a) The board of commissioners shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the board of commissioners, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

**SECTION 5.** Article 1A of Chapter 160B of the General Statutes is amended by adding a new section to read:

**"§ 160B-2.3. Ethics.**

(a) The governing board shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the governing board, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

**SECTION 6.** Part 2 of Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**"§ 130A-49.5. Ethics.**

(a) The governing board shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the governing board, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

**SECTION 7.** The resolution or policy containing a code of ethics that is required by G.S. 160A-83 shall be adopted by each municipality, county, local board of education, unified government, sanitary district, and consolidated city-county on or before January 1, 2011. The governing board may look to model local government codes of ethics for guidance in developing the resolution or policy.

**SECTION 8.** Except as otherwise provided in this act, this act becomes effective January 1, 2010. All members of governing boards covered by this act shall receive their initial training to comply with G.S. 160A-84 within 12 months after that date.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of July, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 2:00 p.m. this 5<sup>th</sup> day of August, 2009